

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

(San Francisco, California)

CYPRESS SECURITY, LLC 1/

Employer

and

INTERNATIONAL UNION, SECURITY,
POLICE AND FIRE PROFESSIONALS
OF AMERICA, (SPFPA) 2/

Petitioner

20-RC-17814**DECISION AND ORDER**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 3/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer. 4/
4. No question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act for the following reasons. 5/

ORDER

IT IS HEREBY ORDERED that the petition(s) filed herein be, and it (they) hereby is (are), dismissed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, 1099-14th Street, NW, Washington, DC 20570-0001**. This request must be received by the Board in Washington by March 12, 2003.

Dated February 26 2003

at San Francisco, California

/s/ Robert H. Miller
Regional Director, Region 20

- 1/ The Employer's name appears as amended at the hearing.
- 2/ The Petitioner's name appears as amended at the hearing.
- 3/ The parties stipulated, and I find, that the Employer is a limited liability company engaged in providing contract security services. Its main place of business is located in San Francisco, California. The parties further stipulated, and I find, that on an annual basis, the Employer provides contract security services to 220 Sansome Street Associates in excess of \$50,000. Based on the parties' stipulation to such facts, I find that the Employer is engaged in commerce and that it will effectuate the purposes of the Act to assert jurisdiction in this matter.
- 4/ The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of the Act.
- 5/ No party contends that there is a contract bar to this proceeding.

The Petitioner seeks to represent a unit comprised of all full-time and part-time security officers employed by the Employer performing guard duties at 220 Sansome Street in San Francisco, California; excluding all other employees, office clerical employees, professional employees, and supervisors as defined in the Act. The Employer provides security services pursuant to a contract with the property management company for that facility, 220 Sansome Street Associates. The Employer takes the position that the petitioned-for single location unit is not an appropriate unit.

The record reflects that the Employer employs approximately 39 to 42 non-management, non-supervisory employees who work at multiple site locations pursuant to contracts the Employer has with various property management companies to provide security services. The Employer's main office is located at 220 Sansome Street, the building where the petitioned-for security officers work. The record does not disclose the locations of the various other sites where the Employer provides security services.

For approximately five years prior to August 2002, the Employer has had a contract for 220 Sansome Street to provide security services. Pursuant to that contract, the Employer provided one security officer in the lobby on weekdays from 7 a.m. to 7 p.m. and from 9 a.m. to 5 p.m. on Saturdays. Two guards have filled these positions.

In approximately August 2002, water pipes burst in the 220 Sansome Street building, causing damage. As a result, the Employer's contract was modified to provide for twenty-four hour a day, seven-day week security officer coverage for the site. Pursuant to this modification in its contract for the site, the Employer has drawn between six and eight security officers from other jobsites to work at 220 Sansome Street for approximately the past six months. These additional security officers fill in the shifts around those worked by the two permanent security officers at the site in order to fill out a twenty-four hour a day, seven day a week schedule.

The additional guards who have filled the extra shifts are chosen by the Employer from other job sites, depending on who is available. The addresses of the various sites where these employees worked are not disclosed in the record. The only security officers who are permanent employees at the 220 Sansome Street site are the two security officers regularly employed there who do not work at other locations.

The security officers who have filled the additional positions have the same skills and qualifications as the other guards who work at the site. Their duties at 220 Sansome Street differ somewhat from those of the two permanent guards at that location because they make rounds to check for water leaks, whereas the regular security officers work at a post in the lobby. Generally, the guards who have been pulled from other work sites continue to work at those sites and are working overtime or additional hours at the 220 Sansome Street location.

The security officers working at the 220 Sansome Street site are supervised by both the Employer's CEO and its field supervisors. On a daily basis, they report to the field supervisors, who also supervise other Employer locations and make rounds of those worksites as well as the 220 Sansome Street location. The record does not disclose the number or identity of these site supervisors or which work sites each of them oversees. The record reflects that the Employer has common benefits and wage rates at all of its locations. The additional security officers, working at the 220 Sansome Street facility have the same supervision while they work at that location, as do the two regular security officers working at the site.

The record does not disclose how much longer this additional service will be required at the 220 Sansome Street facility. While the Employer's CEO testified that he expected that it would end in November 2002, he has had no notification from 220 Sansome Street Associates as to when it will actually end.

Analysis. As noted above, the Petitioner seeks to represent a unit comprised of all full-time and regular part-time security officers working at the 220 Sansome Street location. The Employer takes a position that the petitioned-for unit is inappropriate given the evidence regarding the similar skills and abilities of its security officers, common supervision, common wage rates and benefits, and interchange.

In determining whether a petitioned-for unit of a single location of a multi-location Employer is appropriate, the Board evaluates the following factors: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history. *Bashes, Inc.*, 337 NLRB No. 113 (June 26, 2002); *Alamo Rent-A-Car*, 330 NLRB 897 (2000); *NLRB v. Carson Cable TV*, 795 F.2d 879, 884 (9th Cir. 1986). While a single facility unit is generally presumed to be an appropriate unit See *New Britain Transportation Co.*, 330 NLRB No. 57 (slip op at 1) (December 30, 1999), citing *J&L Plate, Inc.*, 310 NLRB 429 (1993), the instant case involves a single site location where the Employer's guards are assigned to

work. In any event, I find that application of the foregoing factors to the single location unit petitioned for herein is sufficient to rebut this presumption.

The record reflects that supervision for 220 Sansome is the same as that for other Employer locations. The record also reflects that the Employer transfers employees from other locations into this location on a regular basis to fill extra shifts. The functional integration of the Employer's operation is demonstrated by its ability to pull guards from other locations to fill the 24-hour a day, seven-day a week requirement at 220 Sansome Street. While there is no evidence regarding the geographic separation of the 220 Sansome Street location from the Employer's other locations, the Employer's ability to pull employees who work at its other sites and have them work additional hours and overtime at the 220 Sansome Street location for the past six months is an indicator that such sites are not a great distance from the petitioned-for location.

Although there is no history of collective bargaining in the instant case, I take administrative notice of my decisions in other recent guard cases in the San Francisco Bay Area, including, *Professional Technical Security Service, Inc.*, 20-RC-17822; *Pinkerton Security Services, Inc.*, 20-RC-17815 and 20-RC-17819; and *ABM Security Services d/b/a American Commercial Security Services*, 20-RC-17816 and 20-RC-17817, which have lead me to conclude that the pattern of bargaining in the Bay Area in the security guard industry has historically been on a multi-location basis.

The Petitioner argues that the evidence does not overcome the presumption that a single facility unit is appropriate. I disagree. The evidence overcomes this presumption in the instant case, given the common supervision; high degree of interchange; similar skills and duties of guards; and similar terms and conditions of employment. While it is true that the record does not disclose the geographic proximity of the other locations serviced by the Employer, it does show that at least some of these locations are close enough that the Employer can regularly pull guards from those locations to work additional shifts everyday at 220 Sansome Street, and it has been able to do so for the past six months.

In these circumstances, I find that the evidence in the record is sufficient to rebut the presumption that the single facility unit petitioned for herein is an appropriate unit. Although the Petitioner has indicated its willingness to proceed to an election in a unit

<http://kepler.ss.ca.gov/list.html> different than that petitioned-for, in the absence of a petition in a broader unit and a sufficient showing of interest, I decline to make a determination as to as to what would constitute an appropriate unit. Accordingly, I am dismissing the instant petition without prejudice to the Petitioner to file with a sufficient showing of interest, a petition or petitions in other units.

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